

To: Bauer, Candice[bauer.candice@epa.gov]
Cc: Knutson, Jason R - DNR[Jason.Knutson@wisconsin.gov]; Simek, Andrew J - DNR[Andrew.Simek@wisconsin.gov]; Stocks, Adrian G - DNR[Adrian.Stocks@wisconsin.gov]
From: Nyffeler, Robin T - DNR
Sent: Tue 6/20/2017 2:38:02 PM
Subject: "Surface waters" issue in rule pack 5

Does the edited language below address EPA's concern regarding use of the term "surface water"? See changes in red and highlighted yellow. At the bottom of the email, the definition of surface waters that is contained in s. NR 101.03(12) is included. Also, after today, if you have questions on rule package 5, please contact Andrew Simek or Jason Knutson. I will be out of the office beginning on June 22 and won't return until July 10.

SECTION 21. NR 220.15 is repealed and recreated to read:

NR 220.15 Disposal of pollutants into publicly owned treatment works, land treatment systems, or land application of wastewater. (1) In this section, "surface water" has the meaning in s. NR 101.03(12).

(2) When part of a discharger's process wastewater is not being discharged into surface waters of the state because it is disposed into a POTW, into a land treatment system, or via land application of wastewater, thereby reducing the flow or level of pollutants being discharged into a surface water ~~of the state~~, applicable effluent standards and limitations for the discharge in a WPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and standards in the permit shall be calculated by one of the following methods:

(a) If none of the waste from a particular process is discharged into surface waters ~~of the state~~, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards.

(b) In all cases other than those described in par. (a), effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into surface waters ~~of the state~~, and dividing the result by the total wastewater flow. This method is expressed algebraically as:

$$P = \frac{E \times N}{T}$$

Where:

P is the final, adjusted permit effluent limitation,

E is the limitation derived by applying effluent guidelines to the total wastestream,

N is the wastewater flow to be treated and discharged to surface waters, and

T is the total wastewater flow.

(c) In addition to the adjustment in par. (b), effluent limitations and standards may be further adjusted under a fundamentally different factors variance under s. NR 220.20 to make them more or less stringent if discharges to POTWs or land treatment systems change the character or treatability of the pollutants being discharged.

Note: “Land treatment system” is defined in s. NR 214.03 (24). Wells as defined in s. NR 812.05 (1) (b) are not land treatment systems. Disposal of pollutants into wells is prohibited by s. NR 812.05.

(2) Sub. (1) does not apply to the extent that effluent limitations guidelines do any of the following:

(a) Control concentrations of pollutants discharged but not mass.

(b) Specify a different specific technique for adjusting effluent limitations to account for land application or disposal into POTWs.

(3) This section does not alter a permittee’s obligation to meet any more stringent limitations or requirements established under other WPDES permit program regulations, including those under chs. NR 204 and 214.

Here is the definition of surface water in s. NR 101.03(12). It is almost identical to our state definition of “waters of the state” except “groundwater” and “wells” have been removed.

(12) “Surface water” means those portions of Lake Michigan

and Lake Superior within the boundaries of Wisconsin, all lakes,

bays, rivers, streams, springs, ponds, impounding reservoirs,

marshes, water courses, drainage systems and other surface water,

natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and completely retained upon the property of a facility.

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Robin T. Nyffeler
Attorney – Bureau of Legal Services
Wisconsin Department of Natural Resources
Phone: (608) 266-0024

Fax: (608) 266-6983
robin.nyffeler@wisconsin.gov



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